

ORDINANCE NO. 15- 124

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE ROGERS CITY CODE
CONCERNING CODE ENFORCEMENT; PROVIDING FOR THE EMERGENCY
CLAUSE AND FOR OTHER PURPOSES.**

WHEREAS, the language in the Rogers City Code providing for Code Enforcement needs to be amended to better clarify the intent of the City Council; and

WHEREAS, it is beneficial to the citizens of the City of Rogers that the Rogers City Code is consistent, clear, unambiguous, and accurately reflects state and local laws.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

Section 1: That various Sections of the Code of Ordinances, City of Rogers, Arkansas, is hereby amended and shall read in its entirety as shown in the attached Exhibit "A" (attached hereto and incorporated by reference as if set out word for word herein).

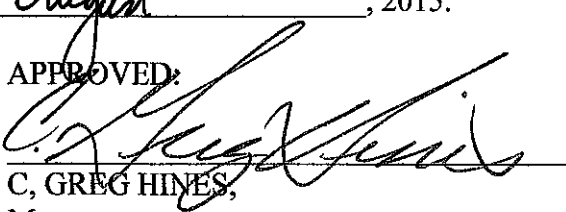
Section 2: That the need to amend said City Code Sections is immediate and in order to protect the public peace, health, safety and welfare an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of its passage and approval.

Section 3: Severability Provision. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 4: Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED this 25th day of August, 2015.

APPROVED:


C, GREG HINES,
Mayor

Attest


PEGGY DAVID, City Clerk



Prepared by: Chris Griffin, Senior Staff Attorney

EXHIBIT "A"

Sec. 1-2. - Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the city council:

Generally. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules and regulations, the most restrictive or that imposing the higher standard shall govern.

State Law reference— Liberal construction of statutes, A.C.A. § 1-2-202.

A.C.A. The term "A.C.A." means the Arkansas Code of 1987 Annotated, as amended or revised in the future.

Acts by agents. When any provision of this Code requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

State Law reference— Designation, etc., of state code, A.C.A. § 1-2-113.

City. The term "city" means the City of Rogers, Arkansas.

City clerk, clerk. The terms "city clerk" and "clerk" are interchangeable and refer to the city clerk.

City council, council. The term "city council" or "council" shall be construed to mean the city council of the City of Rogers.

Building Inspector. The term "building inspector" includes a person and his deputies who shall have been so designated by the administration to have authority and responsibility for administration, regulation and enforcement of the building, plumbing and electrical codes adopted by the city as well as such other duties as may be assigned to the city inspector from time to time.

Code. The term "Code" or "this Code" refers to the Code of Ordinances, City of Rogers, Arkansas, designated in section 1-1.

County. The term "the county" or "this county" means Benton County, Arkansas.

Gender. A term importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

State Law reference— Masculine gender in construction of statutes, A.C.A. § 1-2-203.

Include, including. The term "include," "including" or any other similar term of inclusion means without limitation or restriction.

Joint authority. All terms purporting to give a joint authority in concert to three or more city officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the provisions giving the authority.

May. The term "may" is always directory and not mandatory.

May not. The term "may not" has a prohibitory effect and states a prohibition.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory and not as being permissive.

Number. Every term importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing, and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

State Law reference— Plural and singular words in construction of statutes, A.C.A. § 1-2-203.

Oath. The term "oath" includes an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

State Law reference— Affirmation in lieu of oath, A.C.A. § 16-55-120, Const. Art. 19, § 20.

Officials or officers. Whenever reference is made to officials, boards, commissions or departments by title only, they shall be deemed to refer to the officials, boards, commissions and departments of the city.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The term "person" includes a firm, partnership, organization and body politic and corporate, or any combination thereof, as well as an individual.

Personal property. The term "personal property" shall extend and be applied to every species of property except real property.

Planning authority. The term "planning authority" or "planning official" includes any person and his deputies who shall have been so designated by the city council to have authority and responsibility for administration, regulation and enforcement of zoning, airport hazard zoning, subdivision, streets and planning provisions of the Code as well as such other duties which may be assigned to the planning authority from time to time.

Real property. The term "real property" means lands, tenements and hereditaments, including generally anything erected or growing thereupon or affixed thereto and rights issuing from, annexed to and exercisable within or about the same.

Reasonable time. In all cases where any provisions shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice, as determined by the circumstances.

Shall. The term "shall" is always mandatory and not directory.

Shall have been. The term "shall have been" includes past and future cases.

State. The term "the state" or "this state" means the State of Arkansas.

Tenses. The use of any verb in the present tense includes the future when applicable.

Time, how computed. The time within which any act is to be done, as provided in any provision of this Code or in any order issued pursuant to any provision of this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Sunday or legal holiday it shall be excluded; and when any such time is expressed in hours, the whole of Sunday, from midnight to midnight, shall be excluded.

State Law reference— Computation of time, A.C.A. § 16-55-119.

Week. The term "week" shall be construed to mean seven days, but publication in a newspaper or any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

Year. The term "year" means a calendar year.

(Code 1982, § 1-2; Code 1997, § 1-2)

State Law reference— Liberal construction of statutes, A.C.A. § 1-2-202.

Sec. 6-7. - Possession, maintenance, keeping of innately wild and nondomestic animals.

(b)

Prohibition. The possession, maintenance or keeping of innately wild animals within the city is hereby prohibited and forbidden. The enforcement of the provisions in this section shall be the responsibility of the police department and animal control officers.

Sec. 6-103. - Sale of.

(c)

No seller shall sell, or offer for sale, any puppy, dog, kitten, cat or any domestic pet upon the property of another without first obtaining written permission from the owner of said property. Said written

permission shall be maintained by the seller and produced upon request of any law enforcement or animal control officer.

Sec. 24-13. - Enforcement.

In the event that work being performed is found not to be in accordance with the certificate of appropriateness or upon notification of such fact by the historic district commission and/or city staff, the chief building official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Stop work orders and penalties for noncompliance with such will be enforced according to other applicable laws. A decision shall be made by the HDC concerning the stop work order within five business days. If alleged violations are discovered after the work has been completed, the Office of Code Enforcement shall be responsible for investigation and enforcement of any such alleged violations.

Sec. 30-22. - Composition.

(2)

Chief code enforcement official;

(Code 1982, § 49-17; Code 1997, § 70-32; Ord. No. 95-94, § 1, 11-14-1995)

Sec. 30-24. - Chairman.

The chief code enforcement official shall be the chairman of the board of investigation.

(Code 1982, § 49-19; Code 1997, § 70-34; Ord. No. 95-94, § 2, 11-14-1995)

Sec. 34-5. - Sale and use of fireworks.

(g)

Persons possessing or using fireworks in violation of this section shall be punished by a fine and/or public service not to exceed ten days. In addition, a law enforcement or code enforcement officer is authorized to seize all fireworks from persons violating the terms of this section.

Sec. 34-6. - Novelty lighters.

(c)

Enforcement. The provisions of this section shall be enforced by the Rogers Fire Chief, Rogers Assistant Fire Chief, and any Rogers Police Officer.

Sec. 42-50. - Regulations.

(c)

Any person conducting a sale pursuant to this article shall first be required to obtain a permit from the City Clerk's Office. Each person applying for a permit shall be required to give his name, address, telephone number (if applicable), location and any other information as is reasonably necessary for the proper regulation of garage sales as provided in this article. No fee shall be required for said permit.

(d)

Each person obtaining a permit pursuant to this article shall be required to display the permit in a conspicuous fashion on the premises at which the home sale is conducted. Permits issued under this article shall be prepared in duplicate with the original being issued to the person conducting the home sale and one copy going to the City Clerk's Office. The City Clerk's Office is vested with the responsibility for the issuance of the permits and for the proper filing of the permits. The permits issued hereunder shall specify the dates on which the sale is to be conducted.

Sec. 48-19. - Penalty.

Any person doing business in the city without the payment of the tax provided for in this article and without having been issued a license to transact its business shall, upon conviction, be deemed guilty of a violation of the Rogers City Code.